

Remarks

Claims 1-5 and 7-18 are currently pending in the application. Independent claims 1 and 18 have been amended to introduce new structural features of the restraining device. New claims 20-23 have been added relating to more structural aspects of the restraining device. It is respectfully submitted by the applicant that these additional structural features now claimed meet the examiner's rejections that were maintained in the office action mailed on July 3, 2007.

Claim rejections – 35 USC § 102

Claims 1-7, 7, 9, 10 and 14 were rejected on the basis of 35 USC § 102(e) as being disclosed in Yeager. Specifically, the examiner argued that the previous claims did not include any particular structural features that distinguish over the product of Yeager. This rejection is most respectfully traversed by the amendments to the claims. Claim 1 now positively recites a “releasable fastener device for coupling each user to a respective attachment member”. This additional structural limitation is not found anywhere in Yeager. It is not fulfilled by the grab handles 28 mentioned on page 5 of the office action, because these do not comprise releasable fastener devices. They do not “fasten” the child to the Yeager product, which requires some resistance to voluntary movement of the child away from the device. Yeager deliberately seeks to avoid fastening, and deliberately allows voluntary movement of the child, as indicated in the passages of the introduction quoted in the response filed on June 21. Therefore, this structural feature is not disclosed in Yeager, and the rejection under 35 USC § 102(e) should be withdrawn.

The amended method claim 18 now includes the same structural limitation as product claim 1, i.e. the “releasable fastener device for coupling each user to a respective attachment member”, and also includes the newly added method step that “each user is harnessed to a respective attachment member via the releasable fastener device”. The method step of harnessing each user to the spine member is not taught by Yeager. The examiner has indicated in the second half of page 5 of the office action that the harnessing devices of the prior art “could” have been used with the Yeager device, but it is respectfully asserted that this is not a basis for a lack of novelty objection under 35 USC § 102, because the primary reference of

Yeager does not teach all of the limitations, and the skilled person would need to go to the prior art to obtain at least the positively claimed step of harnessing the user to the spine. Yeager teaches very strongly away from this possibility, as argued above, and in the response filed on June 21, 2007; thus the applicant contends that a skilled person reading the primary reference of Yeager on its own would not get the message that he should make a device according to Yeager but should harness children to it. Withdrawal of the rejection to claims 1 and 18 under 35 USC § 102 is most respectfully requested on this basis.

New dependent claim 20 includes the additional structural limitations of the male and female portions of the releasable fastener device, wherein the projecting part of the male portion couples with the socket on the female portion, thereby releasably fastening the two portions together. This additional feature is not taught or suggested anywhere in the primary reference of Yeager, and this claim is therefore allowable for additional reasons.

Likewise, new dependent claim 21 specifies a resilient locking device resisting disconnection of the two portions from one another, which is not taught or suggested anywhere in Yeager, so this claim is also allowable for additional reasons.

New independent product claim 22 contains all of the limitations set forth in claim 1, and also includes additional structural limitations that distinguish over Yeager. Accordingly, claim 22 is allowable over Yeager for additional reasons.

Claim rejections – 35 USC § 103

Applicant notes with appreciation that no rejections have been raised against claim 1 under 35 USC § 103.

Rejection of claim 17 under 35 USC § 103 in view of Yeager and Nero

Claim 17 was rejected on the basis of 35 USC § 103 as being obvious in view of the primary reference of Yeager when combined with the secondary reference of Nero. Since claim

17 is dependent on claim 1, it includes all of the features of claim 1, which has been amended to set forth additional distinguishing structural features as argued above. Accordingly the applicant submits that dependent claim 17 is therefore also distinguished, by virtue of the dependency of claim 17 upon newly amended claim 1.

Thus the rejection of claim 17 on the basis of 35 USC § 103 in view of Yeager when combined with Nero is most respectfully traversed.

Rejection of claims 8, 11, 12, 13, 15, 16 and 18 under 35 USC § 103 in view of Yeager, Nero and Nadeau.

The above claims are all dependent on claim 1, and each of them includes all of the features of amended claim 1, including the additional structural features added by this amendment, relating to the releasable fastener device. Method claim 18 includes these structural features and the step of harnessing the user to the spine via the releasable fastening device. As argued above, newly amended product claim 1 and newly amended method claim 18 are now allowable over the prior art of record, and accordingly the applicant submits that these dependent claims are therefore also allowable, for the same reasons.

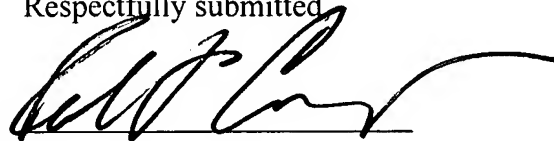
The examiner has argued in the first paragraph of page 4 of the office action that it would have been obvious to an ordinary skilled person to use harnesses etc in the product of the primary reference. However, this position does not appear to take account of the strong teaching of the primary reference that harnessing and tethering devices of any kind should at all costs be avoided. The passages quoted in the previous response filed on June 21, 2007 set out the main thrust of this consistent and emphatic teaching of the primary reference. Even if a person of ordinary skill in the art were to consider modifying the product disclosed in the Yeager primary reference in order to add the features of the harnesses and tethers in the other secondary references as the examiner has suggested, the skilled person would need to completely ignore the consistent emphasis of Yeager to avoid tethers. Such a step would be particularly surprising because the importance of avoiding any kind of tether or harness is the first thing that Yeager emphasises in the introduction, and the whole Yeager document is read in the context that

whatever else can be changed about the Yeager device, it would be entirely incompatible with the Yeager system to introduce any kind of tethering arrangement.

Ignoring this kind of consistent and clear message from the very first passages of a primary reference is not the normal action of one of ordinary skill. Thus, even if a skilled person *could* introduce these changes, he or she *would not* modify the Yeager device to do the very thing that Yeager says not to do. Accordingly the rejection on the basis of this combination (or any combination based on Yeager) is not sustainable and the rejection of these claims on the basis of 35 USC § 103 in view of Yeager, Nero and Nadeau is most respectfully traversed.

It is respectfully submitted that all pending claims are in condition for allowance, and Applicant respectfully requests that allowance be granted at the earliest date possible. Should the Examiner have any questions or comments regarding Applicant's amendments or response, the Examiner is asked to contact Applicant's undersigned representative at (215) 988.3303.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Robert E. Cannuscio', written over a horizontal line.

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